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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEPHEN J. FEIN, on behalf of himself and all	:
others similarly situated,	:
	:
Plaintiff,	:
	:
v.	:
	:
ELAINE CHAO, Secretary, United States	:
Department of Labor,	:
	:
Defendants.	:
----- x	

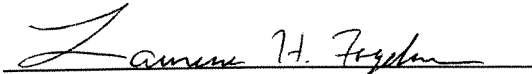
NOTICE OF MOTION
07 Civ 3312 (PAC)

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and the Declaration of Edward Duncan, dated August 30, 2007 and the exhibits annexed thereto, defendant Secretary of Labor Elaine L. Chao ("Secretary" or the "Government"), by her attorney Michael J. Garcia, United States Attorney for the Southern District of New York, will move this Court before the Honorable Paul A. Crotty, United States District Judge, at United States Courthouse, 500 Pearl Street, Courtroom 20C, New York, New York 10007, for an order dismissing the complaint in the above-captioned matter for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, or, in the alternative, for

an order dismissing the complaint for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and for such other relief as the Court deems just and proper.

Dated: August 31, 2007
New York, New York

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